

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
MARSHALL DIVISION**

FRACTUS, S.A.,

Plaintiff,

v.

AT&T MOBILITY LLC,

Defendant,

SPRINT COMMUNICATIONS COMPANY,  
L.P., ET AL.,

Defendants,

T-MOBILE US, INC., ET AL.,

Defendants,

CELLCO PARTNERSHIP D/B/A VERIZON  
WIRELESS,

Defendant,

COMMSCOPE TECHNOLOGIES LLC and  
CELLMAX TECHNOLOGIES AB,

Intervenor-Defendants.

JURY TRIAL DEMANDED

Case No. 2:18-cv-00135-JRG

LEAD CASE

Case No. 2:18-cv-00136-JRG

Case No. 2:18-cv-00137-JRG

Case No. 2:18-cv-00138-JRG

**THIRD AMENDED DOCKET CONTROL ORDER**

In accordance with the scheduling conference held in this case, it is hereby **ORDERED** that the following schedule of deadlines is in effect until further order of this Court:

<b>Current Date</b>	<b>Amended DCO Date</b>	<b>Event</b>
September 9, 2019		*Jury Selection — 9:00 a.m. in <b>Marshall, Texas</b> before Judge Rodney Gilstrap

Current Date	Amended DCO Date	Event
August 14, 2019		*Pretrial Conference — 9:00 a.m. in <b>Marshall, Texas</b> before Judge Rodney Gilstrap
August 7, 2019		*Notify Court of Agreements Reached During Meet and Confer  The parties are ordered to meet and confer on any outstanding objections or motions <i>in limine</i> . The parties shall advise the Court of any agreements reached no later than 1:00 p.m. three (3) business days before the pretrial conference.
August 5, 2019		*File Joint Pretrial Order, Joint Proposed Jury Instructions, Joint Proposed Verdict Form, Responses to Motions in <i>Limine</i> , Updated Exhibit Lists, Updated Witness Lists, and Updated Deposition Designations
July 29, 2019		*File Notice of Request for Daily Transcript or Real Time Reporting.  If a daily transcript or real time reporting of court proceedings is requested for trial, the party or parties making said request shall file a notice with the Court and e-mail the Court Reporter, Shelly Holmes, at shelly_holmes@txed.uscourts.gov.
July 24, 2019		File Motions <i>in Limine</i>  The parties shall limit their motions in <i>limine</i> to issues that if improperly introduced at trial would be so prejudicial that the Court could not alleviate the prejudice by giving appropriate instructions to the jury.
July 22, 2019		Serve Objections to Rebuttal Pretrial Disclosures
July 15, 2019		Serve Objections to Pretrial Disclosures; and Serve Rebuttal Pretrial Disclosures
July 1, 2019		Serve Pretrial Disclosures (Witness List, Deposition Designations, and Exhibit List) by the Party with the Burden of Proof
	August 22, 2019	Response briefs to any motions related to expert report supplementation solely with respect to discovery taken from Amphenol Corporation. Response briefs shall be

Current Date	Amended DCO Date	Event
		limited to no more than 7 pages. No replies or surreplies shall be permitted absent leave of Court.
June 3, 2019	August 16, 2019 (for opening briefs of no more than seven (7) pages on any <i>Daubert</i> issues related to expert report supplementation solely with respect to discovery taken from Amphenol Corporation)	*File Motions to Strike Expert Testimony (including <i>Daubert</i> Motions)  No motion to strike expert testimony (including a <i>Daubert</i> motion) may be filed after this date without leave of the Court.
May 30, 2019	August 9, 2019 (for any follow-up depositions related to expert report supplementation solely with respect to discovery taken from Amphenol Corporation)	Deadline to Complete Expert Discovery
May 13, 2019	July 30, 2019 (for any supplementation of Defendants' rebuttal expert reports solely with respect to discovery taken from Amphenol Corporation)	Serve Disclosures for Rebuttal Expert Witnesses
April 22, 2019	July 16, 2019	Serve Disclosures for Expert Witnesses by the Party with the Burden of Proof

Current Date	Amended DCO Date	Event
	(for any supplementation of Fractus's expert report solely with respect to discovery taken from Amphenol Corporation)	
April 15, 2019	July 12, 2019  (for third-party discovery solely with respect to Amphenol Corporation)	Deadline to Complete Fact Discovery and File Motions to Compel Discovery

(\*) indicates a deadline that cannot be changed without showing good cause. Good cause is not shown merely by indicating that the parties agree that the deadline should be changed.

The parties have not requested changing any deadline bearing a (\*).

### ADDITIONAL REQUIREMENTS

**Notice of Mediator:** The parties are to jointly file a notice that identifies the agreed upon mediator or indicates that no agreement was reached. If the parties do not reach an agreement, the Court will appoint a mediator. The parties should not file a list of mediators to be considered by the Court.

**Summary Judgment Motions, Motions to Strike Expert Testimony, and Daubert Motions:** For each motion, the moving party shall provide the Court with two (2) copies of the completed briefing (opening motion, response, reply, and if applicable, surreply), excluding exhibits, in D-three-ring binders, appropriately tabbed. All documents shall be single-sided and must include the CM/ECF header. For expert-related motions, complete digital copies of the relevant expert report(s) and accompanying exhibits shall be submitted on a single flash drive. These copies shall be delivered as soon as briefing has completed.

**Indefiniteness:** In lieu of early motions for summary judgment, the parties are directed to include any arguments related to the issue of indefiniteness in their Markman briefing, subject to the local rules' normal page limits.

**Motions for Continuance:** The following excuses will not warrant a continuance nor justify a failure to comply with the discovery deadline:

- (a) The fact that there are motions for summary judgment or motions to dismiss pending;
- (b) The fact that one or more of the attorneys is set for trial in another court on the same day, unless the other setting was made prior to the date of this order or was made as a special provision for the parties in the other case;
- (c) The failure to complete discovery prior to trial, unless the parties can demonstrate that it was impossible to complete discovery despite their good faith effort to do so.

**Amendments to the Docket Control Order (“DCO”):** Any motion to alter any date on the DCO shall take the form of a motion to amend the DCO. The motion to amend the DCO shall include a proposed order that lists all of the remaining dates in one column (as above) and the proposed changes to each date in an additional adjacent column (if there is no change for a date the proposed date column should remain blank or indicate that it is unchanged). In other words, the DCO in the proposed order should be complete such that one can clearly see all the remaining deadlines and the changes, if any, to those deadlines, rather than needing to also refer to an earlier version of the DCO.

**Proposed DCO:** The Parties’ Proposed DCO should also follow the format described above under “Amendments to the Docket Control Order (‘DCO’).”